

IN THE MATTER OF ~~JOE J. GENS AND RILEY G. MERSHANT MARINERS~~ DOCUMENT NO.

Issued to: Wilbur White

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1527

Wilbur White

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 11 January 1965, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for three months outright plus three months on twelve months' probation upon finding him guilty of misconduct. Two offenses were proved by evidence that while serving as Radio Officer on board the United States SS ALDINA under authority of the license above described, on 2 October 1964, Appellant assaulted the Master by tearing his shirt and wrongfully had alcoholic beverages in his possession.

The offenses were proved by the testimony of the Master and entries in the Official Logbook, with attached statements by witnesses, as well as by Appellant's admissions.

About 0300 on 2 October 1964 after leaving the port Aden, Aden, the Master tried to awaken Appellant to send the departure report with other important information concerning a damaged propeller. When Appellant failed to get up, the Master threw water on him. Appellant became belligerent and the Master returned to the bridge. Shortly thereafter, the Master went to the radio shack, confiscated two unopened bottles of alcoholic beverages which belonged to Appellant, and threw them over the side.

About 0345, Appellant was still in an angry mood when he went to the bridge. (Appellant said the purpose was to get the message, from the Master, which had not yet been sent.) Appellant grabbed the Master from behind and tore the shirt from his back as the Master turned and kicked at Appellant. The Master called for help, Appellant was subdued, and handcuffed to a rail.

On appeal, it is contended that the findings of the Examiner are not supported by the evidence. There is no elaboration on this point.

OPINION

Appellant's contention is without merit. He admitted the two

confiscated bottles belonged to him and that he tore the Master's shirt in the manner stated above.

In view of the blanket nature of this appeal and the absence of clear error in the record, no further discussion of Appellant's contention is appropriate. Attorney General's Manual on the Administrative Procedure Act (1947), p. 84, note 5.

The order of suspension imposed would be clearly justified on the basis of the attack upon the Master alone, even though it was unpremeditated as Appellant testified.

### ORDER

The order of the Examiner dated at New Orleans, Louisiana on 11 January 1965, is AFFIRMED.

W. D. Shields  
Vice Admiral, United States Coast Guard  
Acting Commandant

Signed at Washington, D. C., this 19th day of November 1965.

### INDEX

#### ABBREVIATED DECISIONS

#### ADMISSIONS

person charged, made by

#### ALCOHOLIC BEVERAGES (see intoxicating liquor)

#### ASSAULT (including battery)

on Master, seriousness of offense

#### INTOXICATING LIQUOR

possession of

#### MASTER

assault on